

REMARKS

This responds to the Final Office Action mailed on August 24, 2009.

Claims 1, 8, 15, and 19 are amended. Claims 1-6, 8-11, and 13-26 are pending in this application.

Claim Objections

Claims 1-6 and 19-24 are objected to because of the following informalities: In claims 1 and 19, “including one or more helical drive grooves” is unclear as to what element “including” is modifying.

Applicant has amended claims 1 and 19 as suggested by the Examiner.

§ 112 Rejection of the Claims

Claims 8-18, 25, and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Applicant has amended claims 8 and 15 to overcome the 35 U.S.C. 112 rejection.

§ 103 Rejection of the Claims

Claims 1-6, 8-11, 13, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peers-Travarton (U.S. 4,667,686) in view of Bisping (U.S. 4,282,885) or Fahlstrom et al. (U.S. 4,913,147; hereinafter “Fahlstrom”).

Claims 1-6 and 24

Applicant has amended claim 1 to better describe the subject matter recited in the claim. Applicant believes claim 1 is not obvious in view of the cited references, since even if combined, the combination does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the combination: the helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston, as recited in claim 1.

In contrast, the Peers-Travartan reference describes a shaft which carries the helical pin or fixation means (see column 3, line 61). The Peers-Travartan reference does not discuss or suggest successive turns of the fixation helix are partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston.

Such subject matter is not discussed or suggested in either Bisping or Fahlstrom. Referring to FIGS. 6-7 in Bisping, the helical groove 26 is part of a protective core that is positioned distally on the fixation helix. The helix is within the grooves 26 and not partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston. Moreover, providing the helical grooved core of Bisping in the lead of Peers-Travartan would not allow the lead of Peers-Travartan to work as intended. Such a core mounted within the helix 30 of Peers-Travartan would interfere with member 32. (See FIG. 2 of Peers-Travartan).

In Fahlstrom, referring to the embodiment in FIGS. 20-21, the piston 33 includes a hollow space on its outer surface. It isn't clear from the Figures what wires are mounted within the gap since they have different cross-hatching than either the spring 35 or the helix 30. However, even if they are part of helix 30, the wires are not partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston. Instead, they are completely contained within the hollow space.

Claims 2-5 and 24 include each limitation of their parent claim and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Claims 8-11, 13, and 25

Applicant has amended claim 8 to better describe the subject matter recited in the claim. Applicant believes claim 8 is not obvious in view of the cited references, since even if combined, the combination does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the combination: the first portion of the fixation helix coupled with the piston forming helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston, as recited in claim 8.

As discussed above, none of the cited references include or suggest such subject matter.

Claims 10, 11, 13, and 25 include each limitation of their parent claim and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Claims 19-23

Applicant has amended claim 19 to better describe the subject matter recited in the claim. Applicant believes claim 19 is not obvious in view of the cited references, since even if combined, the combination does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the combination: the helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston, as recited in claim 19.

As discussed above, none of the cited references include or suggest such subject matter.

Claims 20-23 include each limitation of their parent claim and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Claims 1-6, 8-11, 13-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vachon (U.S. 5,531,780) in view of Bisping or Fahlstrom.

Claims 1-6 and 24

Applicant has amended claim 1 to better describe the subject matter recited in the claim. Applicant believes claim 1 is not obvious in view of the cited references, since even if combined, the combination does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the combination: the helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston, as recited in claim 1.

In contrast, the Vachon reference describes therapeutic delivery methods for fixation means wrapped around a driver. The reference does not describe helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston.

As discussed above, such subject matter is not discussed or suggested by either Bisping or Fahlstrom.

Claims 2-6 and 24 include each limitation of their parent claim and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Claims 8-11, 13, 14, and 25

Applicant has amended claim 8 to better describe the subject matter recited in the claim. Applicant believes claim 8 is not obvious in view of the cited references, since even if combined, the combination does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the combination: the first portion of the fixation helix coupled with the piston forming helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston, as recited in claim 8.

As discussed above, none of the cited references include or suggest such subject matter.

Claims 10, 11, 13, 14, and 25 include each limitation of their parent claim and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Claims 15-17 and 26

Applicant has amended claim 15 to better describe the subject matter recited in the claim. Applicant believes claim 15 is not obvious in view of the cited references, since even if combined, the combination does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the combination: the helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are partially recessed

within the piston with a portion of the fixation helix above an outer surface of the piston, as recited in claim 15.

As discussed above, none of the cited references include or suggest such subject matter.

Claims 16, 17, and 26 include each limitation of their parent claim and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Claims 19-23

Applicant has amended claim 19 to better describe the subject matter recited in the claim. Applicant believes claim 19 is not obvious in view of the cited references, since even if combined, the combination does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the combination: the helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are partially recessed within the piston with a portion of the fixation helix above an outer surface of the piston, as recited in claim 19.

As discussed above, none of the cited references include or suggest such subject matter.

Claims 20-23 include each limitation of their parent claim and are therefore also not obvious in view of the cited references. Reconsideration and allowance is respectfully requested.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Peers-Travarton discussed above for claim 14 or over Peers-Travarton for claims 15 and 16.

Claims 14-16 depend from claims 8 and 15, respectively. As discussed above, the Peers-Travarton reference does not disclose all elements of the independent claims. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above, because neither the Peers-Travarton reference, nor the accompanying reasoning in the Office Action appear to cure the deficiencies noted above.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peers-Travarton in view of Bisping or Fahlstrom.

Claims 17-18 depend from claim 15. As discussed above, the Peers-Travarton reference does not disclose all elements of the independent claims. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above, because neither the Peers-Travarton reference, nor the accompanying reasoning in the Office Action appear to cure the deficiencies noted above.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Vachon as discussed above.

Claims 9-10 depend from Claim 8. As discussed above, the Vachon reference does not disclose all elements of the independent claim. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above, because neither the Vachon reference, nor the accompanying reasoning in the Office Action appear to cure the deficiencies noted above.

CONCLUSION


Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 359-3267 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date February 19, 2010

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 19th day of February, 2010.

Nellie Nuhring
Name


Signature